

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

WILLIAM BRIAN SMITH (01)

No. 4:18-CR-220-A

FACTUAL RESUME

INFORMATION

Count One - Receipt of a visual depiction of a minor engaged in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(2)

PLEA

Guilty plea to Count One

MAXIMUM PENALTY

The maximum penalty for Count One is as follows:

- term of imprisonment for not less than five (5) years and not more than twenty (20) years;
- a fine not to exceed \$ 250,000.00, or twice any pecuniary gain to the defendant or loss to the victim(s);
- a mandatory special assessment of \$100;
- an additional mandatory special assessment of \$5000 must also be imposed pursuant to 18 U.S.C. § 3014 for offenses occurring on or after May 29, 2015, unless the Court finds the defendant to be indigent,
- a term of supervised release of at least five (5) years up to any term of years to life. Revocation of the term of supervised release could result in an additional period of confinement. The effect of a revocation of a term of supervised release is to make the overall period of incarceration longer;
- restitution to victim(s) or to the community, which may be mandatory under the law; and
- costs of incarceration and supervision.

ELEMENTS OF THE OFFENSE

In order to establish the offense alleged in Count One of the Information, the government must prove the following elements beyond a reasonable doubt:

- First: That the defendant did knowingly receive a visual depiction, as alleged in the Information, using any means or facility of interstate or foreign commerce, including by computer;
- Second: That the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct;
- Third: That such visual depiction was of a minor engaged in sexually explicit conduct; and
- Fourth: That the defendant knew that such visual depiction was of sexually explicit conduct and that at least one of the persons engaged in sexually explicit conduct in such visual depiction was a minor.

STIPULATION OF FACTS

1. From on or about August 11, 2016 and continuing until on or September 11, 2017, in the Fort Worth Division of the Northern District of Texas, defendant William Brian Smith knowingly received any visual depiction using any means and facility of interstate and foreign commerce, by any means, including by computer, knowing the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct. Specifically, Smith used the Internet and a computer to receive the following visual depictions of a minor engaged in sexually explicit conduct as defined in 18 U.S.C. § 2256:

File Name	File Description
!NEW! (pthc) Lisa-slip 8yr oral-2awesome-nightshot-wetcunny-hymen-finger	This video file depicts an adult male performing oral sexual intercourse on a prepubescent female. During the video the adult male spreads the child's genitals in a lascivious manner.
!!!![Tropical Cutie] 8y Adry – The Movie (2015) – Preteen PTHC	This video file depicts two nude prepubescent females performing oral sexual intercourse on an adult male who, later in the video, also engages in vaginal sexual intercourse with both prepubescent females.
!!!Spycam Girls Medical Examination (8Yo-14Yo)	This video file depicts several prepubescent females removing their underwear and lasciviously displaying their genitals. During the video, an adult male digitally penetrates and rubs the females' genitals.
!!!TENT –NEW_2007_Kelly-CabinIntro	This video file depicts two nude, prepubescent females lasciviously exposing their genitals. During the video, an adult male spreads and digitally penetrates one of the prepubescent female's genitals.
!!georgia peach	This video file depicts a prepubescent female laying on her back with a towel covering her face lasciviously exposing her genitals. During the video, an adult male rubs his hand on the female's body attempting to touch her genitals.
!07 (14)	This video file depicts a nude prepubescent female performing oral sexual intercourse on an adult male who, later in the video, also engages in anal and vaginal sexual intercourse with her.
!Audio11575	This video file depicts a minor female, approximately 12-14 years old, undressing and lasciviously exposing her genitals. During the video, the minor female utilizes various objects to digitally penetrate and/or masturbate.

!Buratino3315_3856	This video file depicts several prepubescent females playing in a room and lasciviously displaying their genitals.
2yxa_ru_AnnaM_Dares_imp162408	This video file depicts a prepubescent female lasciviously exposing her genitals to the camera.
Kearb1618	This video file depicts a prepubescent female lasciviously exposing her genitals and breasts to a camera.

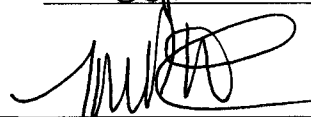
2. On October 3, 2017, Saginaw Police were called to a business located on East McLeroy Boulevard in regard to former employee William Brian Smith's work computer, which contained child pornography.
3. After observing sexually explicit images, officers seized the work computer, a Dell OptiPlex Computer Tower containing a Seagate Barracuda 500 GB hard drive. Additionally, officers obtained a search warrant for Smith's residence, at which time they seized computers and other electronic storage devices.
4. A forensic examination of the Dell work computer revealed that under the username "brian smith," a "downloads" folder contained subfolders as well as images and videos of child pornography to include those described in paragraph one.
5. Smith agrees that he initially used the Internet to acquire the files described in paragraph one, which he then transferred to his work computer via an external hard drive. According to the forensic examination, the files referenced in paragraph one were created, or received, onto his work computer from August 11, 2016 until September 11, 2017.

6. Smith knew that the video files that he received depicted real minors engaged in sexually explicit conduct. Smith agrees that the Internet and his work computer are each a means and facility of interstate and foreign commerce.

SIGNED and AGREED to on this the 6 day of Sept, 2018.



WILLIAM BRIAN SMITH
Defendant



J MICHAEL PRICE, II
Attorney for Defendant

I have been advised, and understand, that under the Sex Offender Registration and Notification Act, a federal law, I must register and keep the registration current in each of the following jurisdictions: where I reside; where I am an employee; and where I am a student. I understand that the requirements for registration include providing my name, my residence address, and the names and addresses of any places where I am or will be an employee or a student, among other information. I may also be required to provide information about intended travel outside the United States. I further understand that the requirement to keep the registration current includes informing at least one jurisdiction in which I reside, am an employee, or am a student not later than three business days after any change of my name, residence, employment, or student status. I have been advised, and understand, that failure to comply with these obligations subjects me to prosecution for failure to register under federal law, 18 U.S.C. Section 2250, which is punishable by a fine or imprisonment or both.

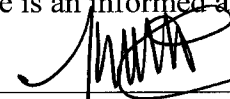


WILLIAM BRIAN SMITH

9/6/2018

Date

I am the defendant's counsel. I have carefully reviewed every part of this Factual Resume with the defendant, including the notice that he is required to register as a sex offender. To my knowledge and belief, my client's decision to enter into this Factual Resume is an informed and voluntary one.



J MICHAEL PRICE, II
Attorney for Defendant

9-6-2018

Date